

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LAWRENCE CLARK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-22-00171-JD
	)	
JOHN DOE, Unnamed Prison Guard/	)	
Van Driver,	)	
	)	
Defendant.	)	

**ORDER**

Plaintiff filed this § 1983 case related to an injury he allegedly incurred while being transported to FCI El Reno. [Doc. No. 1]. Under 28 U.S.C. § 636, the matter was referred to Magistrate Judge Amanda Maxfield Green for initial proceedings. [Doc. No. 5]. Judge Green issued a Report and Recommendation [Doc. No. 13] (“Report”), recommending that plaintiff’s applications to proceed *in forma pauperis* [Doc. Nos. 7, 10] be denied because Plaintiff has sufficient financial resources to pay the filing fee. Report at 2. Judge Green found Plaintiff’s current institutional account balance (\$495.91), average monthly account balance (\$523.21), and average monthly account deposits (\$238.33) mean that he does not qualify for authorization to proceed without prepayment of the filing fee. *See id.* at 2–3.

Plaintiff timely objected to the Report [Doc. No. 14] (“Objection”), triggering *de novo* review of the matters to which objection has been made. 28 U.S.C. § 636(b)(1)(C). The Objection tries to clarify “mistakes” in Plaintiff’s applications and contends that the money in his institutional account is stimulus money from the IRS, which is all the

money that he will have until he is out of incarceration and able to obtain a job. Objection at 1.

28 U.S.C. § 1915(a) allows for the commencement of a civil action without prepayment of fees if “the person is unable to pay such fees or give security therefor.” District courts have “broad discretion in determining whether to grant or deny an application to proceed *in forma pauperis*,” and applications “should be evaluated in light of the applicant’s present financial status.” *Scherer v. Kansas*, 263 F. App’x 667, 669 (10th Cir. 2008) (unpublished) (citing *Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir. 1988)). In this case, even factoring in Plaintiff’s clarifications in the Objection, Plaintiff presently has funds available to pay his filing fee. Thus, the Court overrules the Objection and adopts the Report for the reasons stated therein.

The Court ADOPTS the Report and Recommendation [Doc. No. 13], which results in the Plaintiff’s Motions [Doc. No. 7, 10] being DENIED. Plaintiff is **ORDERED** to pay the complete filing fee (\$402.00) within **twenty-one (21) days** of the date of this order, or by **August 26, 2022**. If the filing fee is not paid, this case will be dismissed without prejudice to refiling. In lieu of paying the filing fee, Plaintiff may dismiss the action without prejudice in compliance with Federal Rule of Civil Procedure 41.

IT IS SO ORDERED this 5th day of August 2022.



JODI W. DISHMAN  
UNITED STATES DISTRICT JUDGE